

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

STEPHEN MIDDLEBROOKS

Plaintiff,

v.

TEVA PHARMACEUTICALS
USA, INC.; TEVA PHARMACEUTICAL:
INDUSTRIES LIMITED

Defendants.

CIVIL ACTION NO. 17-0412

ORDER

AND NOW, this ____ day of _____, 2017, upon consideration of Plaintiff's Motion to Compel Depositions of Defendants' Witnesses, Plaintiff's Motion is **GRANTED**, and it is **ORDERED** that:

(1) Defendants either produce the Israeli witnesses to be deposed in the U.S. or produce sworn affidavits from each of these witnesses supporting Defendants' representations that they will not be traveling to this country for the next few months;

(2) If Defendants' Israeli witnesses will not be traveling to the U.S. over the next few months, produce the witnesses for deposition, in Israel, via video-conferencing, and without anyone else in the room with them other than the Court Reporter/videographer; and,

(3) Mr. Aharoni's deposition is to be conducted in English, and that a Hebrew translator will be available, if needed.

BY THE COURT:

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

STEPHEN MIDDLEBROOKS

Plaintiff,

v.

TEVA PHARMACEUTICALS
USA, INC.; TEVA PHARMACEUTICAL:
INDUSTRIES LIMITED

Defendants.

CIVIL ACTION NO. 17-0412

ATTORNEY CERTIFICATION

Pursuant to Fed.R.Civ.P 26.1(f), the undersigned counsel for Plaintiff hereby certifies that in an effort to confer with Defendants in order to resolve this matter without court action, and, that despite counsels' reasonable efforts to resolve the dispute, the parties have not been unable to do so.

CERTIFIED TO THE COURT

Date: September 11, 2017

BY: /s/ Caren N. Gurmankin
Caren N. Gurmankin, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I, Caren N. Gurmankin, Esquire, hereby certify that Plaintiff's Motion to Compel regarding Depositions of Defendants' Witnesses, was served via ECF, this day of **September 11, 2017**, upon the following:

Larry J. Rappoport, Esq.
Jennifer A. Ermilio, Esq.
Stevens & Lee
1818 Market Street, 29th Floor
Philadelphia, PA 19103

Counsel for Defendant

CONSOLE MATTIACCI LAW, LLC

BY: /s/ Caren N. Gurmankin
Caren N. Gurmankin, Esq.
1525 Locust Street, 9th Floor
Philadelphia, PA 19102

Attorney for Plaintiff,
Stephen Middlebrooks

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

STEPHEN MIDDLEBROOKS

Plaintiff,

v.

**TEVA PHARMACEUTICALS
USA, INC.; TEVA PHARMACEUTICAL:
INDUSTRIES LIMITED**

Defendants.

CIVIL ACTION NO. 17-0412

**PLAINTIFF’S MOTION TO COMPEL REGARDING DEPOSITIONS
OF DEFENDANTS’ WITNESSES**

Plaintiff requests that this Court order Defendants to produce their witnesses who are based in Israel to be deposed in the United States or, if those witnesses are not scheduled to be in the U.S. in the near future (as supported by sworn affidavit), to be deposed via video-conferencing without anyone else in the room (other than the Court Reporter/videographer) and, in support of the same, avers as follows:

1. Certain of Defendants’ witnesses, including Plaintiff’s direct supervisor (Nir Aharoni, who is also one of the decision-makers regarding Plaintiff’s termination), are based at Defendants’ headquarters in Israel. Defendants’ counsel offered Plaintiff the opportunity to take the depositions of those witnesses, via video-conferencing, at Defendants’ United States headquarters, as they represented that they would not be coming to the U.S. in the near future.

2. Plaintiff agreed to Defendants’ proposal to take the depositions via video-conferencing, on two (2) conditions: (1) no one other than the Court Reporter (and videographer) would be in the room with the deponent; and, (2) Plaintiff would send documents

to the Court Reporter ahead of the deposition, and they would not be shown to the witness until they were introduced during the deposition and marked as exhibits. Defendants have refused to agree to the first condition (they did agree to the second regarding documents).

3. Plaintiff has asked Defendants, repeatedly, for an explanation regarding their refusal to agree that no one would be in the room with the witness for a video deposition (other than the Court Reporter/videographer). Defendants have failed to provide an explanation, other than stating that someone from Defendants' Law Department would need to be in the room with the witnesses, as the witnesses had not been deposed previously¹.

4. Plaintiff became aware that certain of the individuals whom he was seeking to depose, including his direct supervisor, Mr. Aharoni, were coming to the U.S. for work-related meetings (as they had, regularly, throughout Plaintiff's employment). When Plaintiff asked Defendants about the same (so that he could take their depositions, in person, in the U.S.), they stated that Plaintiff's belief was incorrect and that these witnesses were not scheduled to be in the U.S. through 2017.

5. Plaintiff then asked Defendants to provide sworn affidavits from each of the deponents (together with their recent history of coming to the U.S. in the past eighteen (18) months) to support their assertions that they would not be coming here in the near future. Defendants have refused to provide the same.

¹ Plaintiff has confirmed that the Court Reporter will, of course, be there to hand exhibits to the witness, and Plaintiff's counsel will direct the witness as to what to look at in the particular document being examined. Defendants have failed to state what other assistance their witnesses might need from their Law Department employees (or anyone other than the Court Reporter/videographer).

6. Defendants also stated that Mr. Aharoni would need to have a translator at his deposition so that Plaintiff's questions could be translated to Hebrew. Plaintiff objects to the same. Mr. Aharoni communicated solely in English via his electronic communications to his employees, including Plaintiff; he communicated with Plaintiff solely in English in their verbal communications, as Plaintiff does not speak Hebrew; and, he was able to come to the U.S. and terminate Plaintiff's employment (also in English). (Attached hereto as Exhibit "A" are just a few examples of Mr. Aharoni's electronic communications, in English, to his employees, clearly demonstrating his ability to communicate fluently in that language). Plaintiff stated that he did not object to a Hebrew translator being available should Mr. Aharoni require assistance in understanding a particular question.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant his present Motion and enter an Order in the form attached hereto, compelling Defendants to: (1) Either produce the Israeli witnesses to be deposed in the U.S. or produce sworn affidavits from each of these witnesses supporting Defendants' representations that they will not be traveling to this country for the next few months; (2) Ordering Defendants (if their Israeli witnesses will not be traveling to the U.S.) to produce the witnesses for deposition, in Israel, via video-conferencing, and without anyone else in the room with them other than the Court Reporter/videographer; and,

(3) Ordering Mr. Aharoni's deposition to be conducted in English, and that a Hebrew translator will be available, if needed.

Respectfully submitted,

CONSOLE MATTIACCI LAW

Dated: September 11, 2017

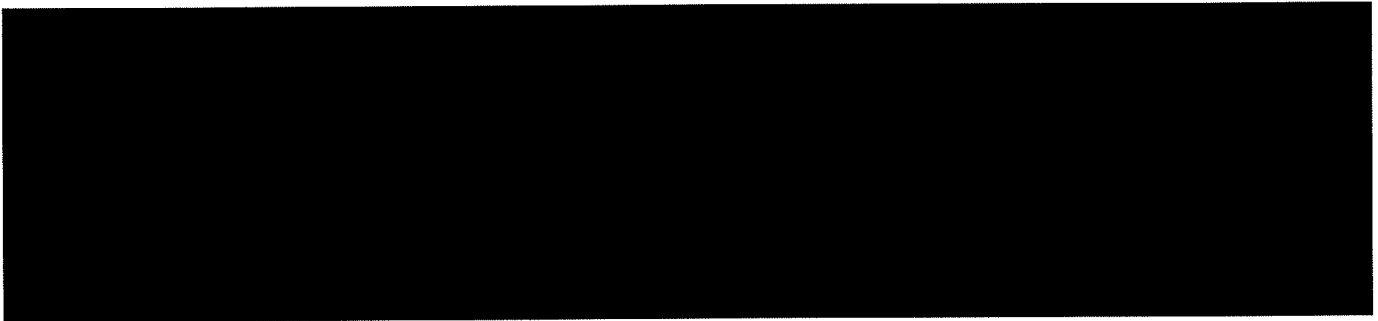
BY: /s/ Caren N. Gurmankin
Caren N. Gurmankin, Esq.
1525 Locust Street, 9th Fl.
Philadelphia, PA 19102
(215) 545-7676

Attorneys for Plaintiff,
Stephen Middlebrooks

Exhibit A

Charbonneau, Paige E.

From: Nir Aharoni <Nir.Aharoni@teva.co.il>
Sent: Friday, June 02, 2017 3:30 AM
To: Ermilio, Jennifer A.
Subject: FW: FM NA - HR topics



Nir Aharoni, VP, Head of Global Facility Management
 Tel: +972-3-9148940 Cell: +972-54-8883378 Fax: +972-3-9148695
 Nir.Aharoni@teva.co.il sip:Nir.Aharoni@tevapharm.com www.tevapharm.com

From: Nir Aharoni
Sent: Wednesday, July 23, 2014 11:28 PM
To: Ilanit Shtrouchier; Jennifer Flaisher; Mini Rodriguez; Stephen Middlebrooks
Cc: Roni Kafre; Eli Aharoni
Subject: FM NA - HR topics

Mini and Ilanit,

Thanks for the important conversation we had 2 nights ago. Below are my decisions on each one of the topics were raised in our discussion :

Currently we are working on the Job Leveling and Job architectural for the GFM. As well, according to HR policy in Israel, during the first 3-6 months of new duty, we do not upgrade wages and/or managerial hierarchy/leveling. That allow us to make sure that the officeholder is actually capable to his/her job and achieves his/her goals.

In order to create uniformity in the GFM and due to the rezones mention above, I don't think we should upgrade wages and/or new grade and/or Job Leveling for all FM NA managers and employees. **Ilanit, Please schedule a meeting to discuss this issue (participant: Ilanit, Liti, Mini, Jenifer, Steve, Nir). At this meeting Steve will present us his approach about NA FM organizational leveling. Till my final decision there won't be any upgrades.**

About your proposal, that the CFM managers will be interviewed by the stakeholders - **not approved**.

About Troy, As I understood during the call, there is doubt whether Troy understands and aware of the implications of the role as CFM East Cost. I discussed this issue with Steve and he already discussed it with Troy. Due to all the information I got/heard, I decided to continue the process with Troy. **Please appoint him instantly to his new role.**

About Ellen - given the information that were presented by HR about her managerial disqualifications, and some other positive information I heard + my privet impression as well as given the information that sending candidates for an

external exams is not common in the US (in order to determine the managerial capabilities to perform the role) I have decided to appoint her to the new position. **Please appoint her to her new role**

About Canada CFM and West Coast and Central USA CFM – **Ilanit, Liti and MINI, please interview Scott and Paul ASAP.** Please update me how was your impression of the candidates.
Parallely Steve and I will schedule an interview with both of them - this interview will take place after the HR interview. Depending on the impression of the applicants i will decide whether to open this job for an internal /external candidates.

Mentor/ Organizational Consultant for Steve –**please find a mentor / Organizational Consultant that will accompany Steve.** At the same time please schedule an appointment with Steve, Ilanit, Liti, MIN and I in order to define the scope of work, managerial gaps, complexities of Steve's role and actions required to carry out by the consultant / mentor .

The only way to achieve our goals in NA is by accelerate the establishment of NA FM organization . please priorities those activities.

Thanks

Best regards,

 **Nir Aharoni**, Head of Global Facility Management
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From: [Ermilio, Jennifer A.](#)
To: [Ermilio, Jennifer A.](#)
Subject: FW: Steve Middlebrooks joins the GFM
Date: Tuesday, May 23, 2017 1:51:05 PM
Attachments: [image001.png](#)

Jennifer A. Ermilio

STEVENS & LEE

A Stevens & Lee/Griffin Company


620 Freedom Business Center, Suite 200 | King of Prussia, PA 19406

Phone: 610-205-6044 | Internal: 3044 | Fax: 610-371-7744

jae@stevenslee.com | www.stevenslee.com

From: Nir Aharoni [<mailto:Nir.Aharoni@teva.co.il>]
Sent: Sunday, April 30, 2017 2:45 AM
To: Ermilio, Jennifer A.
Cc: Rappoport, Larry J.; Christopher Swartz; Thomas McDonough
Subject: FW: Steve Middlebrooks joins the GFM

Redacted

 **Nir Aharoni** VP, Head of Global Facility Management
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Nir.Aharoni@teva.co.il sip:Nir.Aharoni@tevapharm.com www.tevapharm.com

From: Nir Aharoni
Sent: Friday, January 10, 2014 5:52 PM
To: Stephen Middlebrooks
Cc: Eli Aharoni; Shimrit Shemtov; Ilanit Shtrouhler; Or Mazor; Roni Kafre; Shlomo Lahav01
Subject: Steve Middlebrooks joins the GFM

Hi Steve,

Congratulations!

I wish to welcome you to my department. I have no doubt that together we will be able to lead the

TEVA (SM) 000162

FM in NA (US and Canada) to higher standards and I wish you lots of success in your new /old position.

In your position you will manage the soft and hard services at the NA non TGO sites and the soft services at the NA TGO sites. You will report to me directly and in dotted line to Michael Frank regarding the soft services at the TGO sites only.

In the beginning of the coming week I will call Michael Frank to set up the guidelines for our mutual work. We will work closely with him as the representative of the TGO. My approach is that we will be able to lead the FM only through cooperation with the Business Managers therefore we will work closely with all BU managers in NA.

In the coming days we will publish an announcement. In order to phrase the announcement please send Ilanit the following information:

- The number of years you are employed in TEVA,
- Your former positions in TEVA and before TEVA.
- Your education

A draft will be sent to you for proof-reading before publishing it.

Ilanit will manage all the HR aspects of subordinate you under my management.

Please plan your visit in Israel for the week of Jan 25-31, 2014. The main goal of this visit is to devise the NA 2014 Work Plan. To this end, Roni will set up meetings for us with my headquarters. He will put together your itinerary and will circulate it. During your visit we will visit several sites where you will be introduced to the management of soft services as well as how they combine between soft and hard services under the same management. I will update Michael Frank, Larry Downey and Allan Oberman about your visit. Do you think additional managers should be informed?

I will set a TC between us on Monday 13th of Jan' 2013

I look forward to your earliest reply.

Best regards,



Nir Aharoni Global Facility Management, Director

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
Nir.Aharoni@teva.co.il sjp:Nir.Aharoni@tevapharm.com

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TEVA (SM) 000163

From: [Nir Aharoni](#)
To: [Ermilio, Jennifer A.](#)
Subject: FW: feedback - following Steve's departure
Date: Monday, May 01, 2017 6:55:02 AM
Attachments: [image001.png](#)
[image002.png](#)

Redacted

 **Nir Aharoni** VP, Head of Global Facility Management
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From: Nir Aharoni
Sent: Saturday, March 12, 2016 10:27 PM
To: Jennifer Flaisher
Cc: Christopher Swartz
Subject: RE: feedback - following Steve's departure

Hi Jennifer

Thank you for your feedback.

At the last week we had our GFM first annual convention and I was very busy to handle the NA FM HR issues.

Unfortunately during the last two weeks I was exposed to the gaps on the integration plans (mainly Parsippany) as well of some other gaps and BUs complains. I decided to step in and personally manage the integration with the NA FM team. I informed Menny Marom, Gadi BenNissim, Daniel Lawlor, Ori Warshavsky about it.

I hoped to send the announcement with the interim region manager name therefore I decided to wait with the announcement.

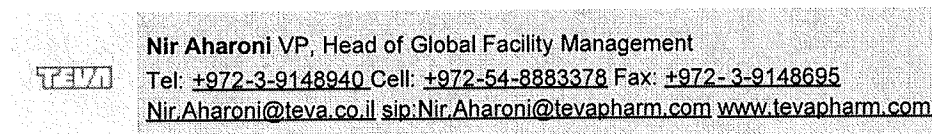
During the last week few issues were raised regarding appointing Troy as interim manager. In one hand he signed the retention bonus, in other hand he applied for a position in Canada. I got indirect messages that he actually doesn't want to take the interim position. On other hand he asked me if I have a proposal for him. During the last week he didn't showed any leadership leading the team. It hard to me to understand him.

I spoke with Dan Ramiraz about the interim position. Tentatively he agreed without any hesitation.

TEVA (SM) 000499

On Monday I scheduled a meeting with Chris to discuss all NA FM HR issues (including Don Sadia, recruiting process etc.).

Best regards



From: Jennifer Flaisher
Sent: Friday, March 11, 2016 6:03 PM
To: Nir Aharoni
Cc: Christopher Swartz
Subject: feedback - following Steve's departure

Nir,
I wanted to reach out and pass along some feedback I am hearing.
Everyone is wondering what happened to Steve, what the plan is to lead North American facilities in the interim and how facilities will support the Actavis integration.
I know that Chris had helped you create a communication to send to key stakeholders that would address some of these critical questions. Where are you with this?
The lack of communication and information is making Facilities look bad.
Let me know if there is anything we can do,
Jen

Best regards,

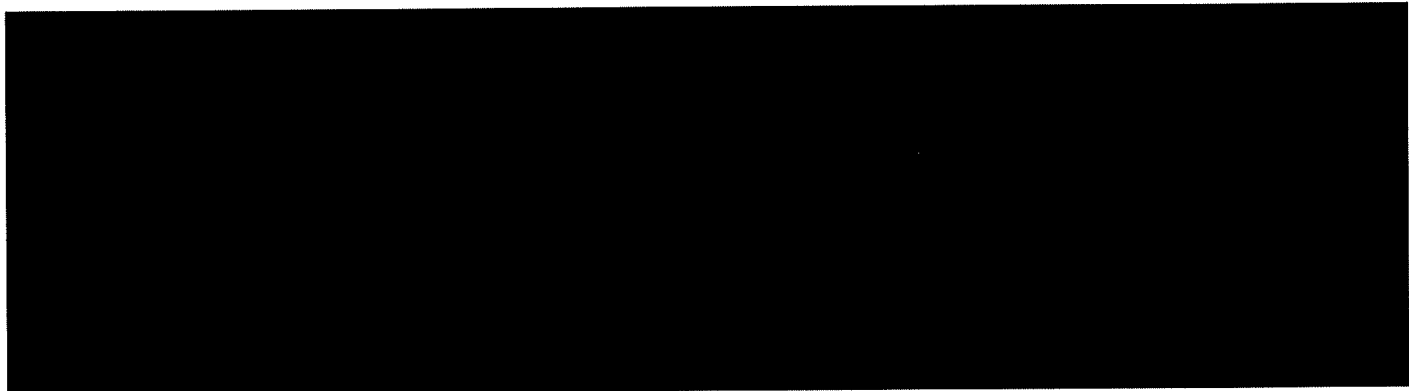


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TEVA (SM) 000500

From: Nir Aharoni <Nir.Aharoni@teva.co.il>
Sent: Friday, May 26, 2017 10:09 AM
To: Ermilio, Jennifer A.
Subject: FW: West Chester Visit



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From: Nir Aharoni
Sent: Sunday, April 13, 2014 1:03 PM
To: Radcliff A Rodney
Cc: Stephen Middlebrooks; Roni Kafre
Subject: RE: West Chester Visit

Hi Rodney

It was great pleasure for us to meet with you and Steve's management and employees.

Thank you for sharing with us the information and data regarding your sites and activities. I will do my best to visit at your sites at my next visit in NA.

You can feel free to consult with us at any topic and problem you have or deal with.

An FM forum for all NA sites will be established in the coming weeks. This forum will gather at least on a quarterly basis in order to enable FM managers to share information and knowledge.

I'm enthusiastic to hear your new ideas regarding the costs reduction and savings we can have at your sites. I have no doubt that you would come with good ideas and great savings.

Best regards,

Nir Aharoni Head of Global Facility Management
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From: Nir Aharoni <Nir.Aharoni@teva.co.il>
Sent: Friday, May 26, 2017 10:52 AM
To: Ermilio, Jennifer A.
Subject: FW: CulinArt Staff Feedback -- HR's role in the New Arrangement

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From: Nir Aharoni
Sent: Wednesday, April 23, 2014 7:32 AM
To: Stephen Middlebrooks; Ellen Cicak
Cc: Roni Kafre; Ricky Tor; Ilanit Shtrouhler
Subject: RE: CulinArt Staff Feedback -- HR's role in the New Arrangement

Hi Steve and Ellen,

HR department has a significant role in the work process regarding the catering services, since it is the employee welfare benefits and catering services are part of cost of labor
 In Israel, we are working in full cooperation with Human Resources as well as unions as well as BUs managers and we will do the same in NA.

You should look at HR as business partner. However, a clear lines should be drawn between you and HR. Any decisions that related to the service level ,prices, contract changes , employee benefits will be made together with HR and BUs. however day by day activities, managing the services and the suppliers, paying the bills, etc. is pure FM. Above all we need to assure an excellent service with lower costs. Any disagreement between HR and NA FM will be escalated to me and Lesley Billow.

Look at this process as a change management therefore you should manage it in sensitive approach.

Please involve and share this process with Elaine as well.

I recommend to schedule a meeting with HR in order to clarifying things (with me or without me -- up to your decision)

I also recommend to :

1. establish a "catering service meetings" that will gather together every month (at the beginning and later on every quarter) to discuss issues related to the service.
2. To define a SLA, financial KPIs. Service KPIs and to measure them.
3. Ricky Tor [REDACTED] is our dietician consultant and Inspector in IL . I truly recommend you to schedule a TC meeting with her in order to discuss about managing the catering services.

Please schedule a meeting with Roni and me in order to present us the transition and implementation process ..

Thanks

Best regards,

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From: Stephen Middlebrooks
Sent: Monday, April 21, 2014 11:31 PM
To: Nir Aharoni
Cc: Roni Kafre; Ellen Cicak
Subject: FW: CulinArt Staff Feedback -- HR's role in the New Arrangement

Nir,

I received this email this afternoon, and would like to discuss this issue with you. I find the request from Darren to be completely unacceptable. If GFM is going to handle cafeteria services in NA, then we will handle it. I do not need HR being the "Owner" of all decisions.

I am not sure what the appropriate response should be, and would like to hear your advice on how to proceed.

Regards,

Steve

Stephen Middlebrooks Dir. Facilities Engineering
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 Stephen.Middlebrooks@tevapharm.com sip:Stephen.Middlebrooks@tevapharm.com www.tevapharm.com

Teva Pharmaceuticals
 PO Box 1090
 North Wales, PA 19454-1090

From: Darren DeRosa
Sent: Monday, April 21, 2014 12:18 PM
To: Stephen Middlebrooks; Ellen Cicak
Cc: Crystal Waples; Greg Westbrook
Subject: CulinArt Staff Feedback -- HR's role in the New Arrangement

Hi Steve and Ellen,

I saw Rob two Fridays in the cafeteria and he mentioned that he and the two of you were meeting to discuss the finances of CulinArt. I hope that meeting went well and that you now have a better understanding the complexity and workings of CulinArt from beyond the facilities side of things.

As we discussed in the meeting earlier in April, the transition of primary ownership and budget will shift from HR to GFM. The day to day operations and facilities work will be aligned to GFM. However, HR will be co-owner of the decisions being made that impact the employees. Specifically, we will continue to be "owners" in the pricing, services, selections, and all other components that would impact employee morale, satisfaction, and engagement.